

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

STEVEN RANAE GLEEN CANDLER,
Plaintiff,
v.
JOHN & JANE DOES, et al.,
Defendants.

No. 1:23-cv-00459-JLT-SAB (PC)

**ORDER GRANTING PLAINTIFF'S FOURTH
(AND FINAL) MOTION FOR EXTENSION
OF TIME AND DENYING REQUEST FOR
APPOINTMENT OF COUNSEL**

(ECF No. 23)

Plaintiff is proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983.

Currently before the Court is Plaintiff's fourth motion for an extension of time and appointment of counsel, filed August 10, 2023.

First, as to Plaintiff's request for appointment of counsel, he does not have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require any attorney to represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern District of Iowa, 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the court may request the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525.

Without a reasonable method of securing and compensating counsel, the court will seek volunteer counsel only in the most serious and exceptional cases. In determining whether "exceptional circumstances exist, the district court must evaluate both the likelihood of success on the merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the

1 complexity of the legal issues involved.” Id. (internal quotation marks and citations omitted).

2 In the present case, the Court does not find the required exceptional circumstances. Even
3 if it assumed that Plaintiff is not well versed in the law and that he has made serious allegations
4 which, if proved, would entitle him to relief, his case is not exceptional. The Court is faced with
5 similar cases almost daily. While the Court recognizes that Plaintiff is at a disadvantage due to
6 his pro se status and his incarceration, the test is not whether Plaintiff would benefit from the
7 appointment of counsel. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986) (“Most
8 actions require development of further facts during litigation and a pro se litigant will seldom be
9 in a position to investigate easily the facts necessary to support the case.”) The test is whether
10 exception circumstances exist and here, they do not. Indeed, the Court issued Findings and
11 Recommendations finding that Plaintiff stated a cognizable excessive force claim against an
12 unidentified correctional officer at Wasco State Prison and provides no basis whatsoever as to
13 why counsel is necessary. (ECF No. 12.) Accordingly, Plaintiff’s motion for the appointment of
14 counsel is denied, without prejudice.

15 As to Plaintiff’s fourth motion for an extension of time to file objections, because Plaintiff
16 has been given more than ample opportunity to file objections, the Court will grant Plaintiff one
17 last extension to file objections, but no further requests will be entertained absent extraordinary
18 circumstances, not present here.

19 Accordingly, it is HEREBY ORDERED that:

20 1. Plaintiff’s motion for appointment of counsel is denied, without prejudice; and
21 2. Plaintiff is granted thirty (30) days from the date of service of this order to file
22 objections. No further extensions will be granted.

23 IT IS SO ORDERED.

24 Dated: August 11, 2023


UNITED STATES MAGISTRATE JUDGE

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